

REMARKS

Claims 1-20 are pending in this application. By this Amendment, claim 1 is amended. The amendments introduce no new matter. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, on page 2, rejects claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,924,510 to Itoh et al. (hereinafter "Itoh") in view of U.S. Patent No. 5,376,868 to Toyoda et al. (hereinafter "Toyoda"). This rejection is respectfully traversed.

Itoh teaches a rotation transmission device mounted in a drive train of a four-wheel drive vehicle to selectively distribute driving force to selected vehicle wheels according to the travel condition of the vehicle (Abstract).

Toyoda teaches a driving force controller for an electric motor vehicle which suppresses changes in behavior of a vehicle when a right or left driving wheel experiences trouble and detects vehicle conditions to independently control the driving force of each wheel so as not to deviate from a predetermined range (Abstract).

As such, Itoh teaches that a driving power for each tire is independently controlled in accordance with a shift of ground load so that, for example, cornering capability and stability of the vehicle may be maintained. Toyoda teaches distribution of a certain portion of the driving force to the sub-traction wheel.

Claim 1 recites, among other features, wherein the controller estimates an amount of correction by the vehicle operator based on an excess yaw moment and obtains the normal vehicle state value based on the estimated amount of correction and that actual operational amount. Claim 9 recites, among other features, wherein the controller estimates an amount of correction with respect to the vehicle operating member performed by the vehicle operator and corrects the normal vehicle state based on the estimated amount of the correction. Claim

16 recites wherein the controller estimates an amount of correction with respect to the vehicle operating member performed by the vehicle operator, and corrects the control value based on the estimated amount of correction.

There is nothing in either of Itoh or Toyoda that can reasonably be considered to suggest a vehicle behavior control system that executes the vehicle behavior control in consideration of the amount of the correcting operation of the vehicle operator for an appropriate vehicle behavior control in accordance with the vehicle operator's correcting operation.

Further, the conclusory statement that it would have been obvious to modify the system of Itoh with that of Toyoda by having a controller for correcting with respect to the vehicle operating member by the vehicle operator since it would allow better distribution for driving force among the wheels is not enough to prove that there is a teaching, suggestion or motivation in the prior art to combine these references in the manner suggested by the Office Action. First, as discussed above, this conclusory statement misconstrues the teachings of the references with respect to the control inputs of each. Second, the Federal Circuit recently reaffirmed its prior holdings asserting that "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, Appeal No. 04-1616, March 22, 2006 (Fed. Cir.) (quoting *In re Lee*, 277 F.3d 1338, 1343-46 (Fed. Cir. 2002), and *In re Rouffet*, 149 F.3d 1350, 1355-59 (Fed. Cir. 1998)). This standard is not met here.

MPEP §2143.01 instructs that "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." MPEP §2143.01 further instructs that "[a]lthough a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there

must be a suggestion or motivation in the reference to do so." *See also In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Applicant respectfully submits that the rejection of at least independent claims 1, 9 and 16 is improper in view of at least MPEP §2143.01 because the Office Action lacks the required specific evidence of a teaching, suggestion or motivation in the prior art for one of ordinary skill to combine the references.

It is not reasonable to simply assert without more that one of ordinary skill in the art would have combined (1) any alleged vehicle behavior control system to control selected distribution of driving force to selected vehicle wheels via a rotation transmission device in a four-wheel drive vehicle with (2) an individual driving force controller system that provides for differential driving force produced by individual motors on each of the wheels in an electric motor vehicle. The motivation to combine these references asserted in the Office Action falls short of indicating where such motivation to combine these references may reasonably be found in the prior art.

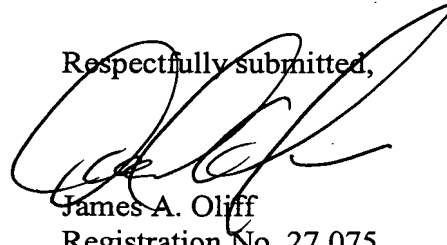
For at least the above reasons, Toyoda and Itoh are not combinable in the matter suggested by the Office Action. To any extent that these references may be permissibly combined, any combination of these references cannot reasonably be considered to teach, or even to have suggested, the combinations of all of the features varying recited in independent claims 1, 9 and 16. Further, the asserted combination of applied prior art references would not have suggested the combinations of features recited in claims 2-8, 10-15, and 17-20 for at least the respective dependence of these claims directly or indirectly on independent claims 1, 9 and 16, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over Itoh in view of Toyoda, are respectfully requested.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-20 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number set forth below.

Respectfully submitted,



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